

Michigan IV-D Child Support Manual
Michigan Department of Health and Human Services

Publication/ Revision Date: April 29, 2021	Chapter Number: 4.0	Chapter Title: Order Establishment
	Section Number: 4.06	Section Title: Paternity Disestablishment

Table of Contents

1. Legal Requirements.....	1
1.1 Statutory Discretion Provided to the Court	2
1.2 Protections for Certain Cases.....	3
2. Methods for Disestablishing Paternity.....	3
2.1 Setting Aside an Acknowledgment of Parentage (AOP).....	3
2.2 Determining a Genetic Father Is Not a Child's Father	4
2.3 Setting Aside an Order of Filiation	4
2.4 Determining a Child Was Born Out of Wedlock.....	4
3. IV-D Responsibility to Provide Paternity Disestablishment Services	4
4. Determining Eligibility for IV-D Reimbursement	5
4.1 IV-D Eligibility Criteria.....	5
4.2 IV-D Activities for RPA.....	6
4.3 Non-IV-D RPA Activities	6
5. IV-D Worker Actions When RPA Cases Do Not Meet IV-D Eligibility Criteria	7
6. IV-D Worker Actions Once Genetic Testing Has Been Ordered	7
6.1 Genetic Test Results Determine Alleged Father Is Not the Biological Father.....	7
6.2 Genetic Test Results Determine Alleged Father Is the Biological Father	7
6.3 Documentation in MiCSES	9

[Exhibit 4.06E1: Additional Questions and Answers Regarding Section 4.06, "Paternity Disestablishment"](#)

[Exhibit 4.06E2: Criteria for IV-D Reimbursement of Genetic Testing in Actions Under the Revocation of Paternity Act \(RPA\)](#)

1. Legal Requirements

Federal law¹ requires that states have procedures for any person signing a voluntary acknowledgment of paternity to rescind that acknowledgment within 60 days of:

- Signing the paternity acknowledgment; or
- The date of an administrative or judicial proceeding relating to the child, where the person who signed the paternity acknowledgment is a party to the case.

Federal law also requires states to have procedures under which a paternity acknowledgment may be challenged in court subsequent to the 60-day rescission

¹ 42 United States Code (USC) 666(a)(5)(D)

period based on fraud, duress, or a material mistake of fact.² This is the only paternity disestablishment requirement discussed in federal law.

In June 2012, the Michigan Legislature enacted the Revocation of Paternity Act (RPA).³ The RPA identifies which parties have legal standing to challenge paternity and the methods that all parties must use to disestablish paternity. The RPA provides four specific types of actions in which a revocation of paternity may occur:

- An action to set aside an Acknowledgment of Parentage (AOP);⁴
- An action to determine that a genetic father⁵ is not a child's father;
- An action to set aside an order of filiation; and
- An action to determine that a child is born out of wedlock when the presumed father⁶ is determined not to be the child's father.

Each revocation action has statutory eligibility criteria specific to how paternity was initially established. These criteria must be met in order for the revocation action to proceed. In addition, all revocation actions are bound by statutory time limits; they must be filed within three years of the child's birth or within one year of the following:

- The date of the order of filiation;
- The date the AOP was signed; or
- The date the genetic father was established as the child's father.

Statutory time limits are based on whichever date occurs later. If the court finds the action for revocation to be sufficient in meeting the criteria identified in the RPA, the court will order genetic testing to be completed by the parties.

1.1 Statutory Discretion Provided to the Court

The RPA provides the court with discretion in handling RPA actions that include the following:

- A court may refuse to enter an order setting aside paternity or determining a child was born out of wedlock if the court finds it would not be in the best interests of the child;⁷
- The court will order genetic testing to assist the court in making its determination; however, the results of the genetic tests are not binding on the court; and

² 42 USC 666(a)(5)(D)(iii)

³ Michigan Compiled Law (MCL) 722.1431 et seq.

⁴ In Michigan, the *Affidavit of Parentage* (DCH-0682) is used to acknowledge paternity.

⁵ MCL 722.1433 defines a "genetic father" as "a man whose paternity has been determined solely through genetic testing under the Paternity Act, 1956 Public Act 205, MCL 722.711 to 722.730; the Summary Support and Paternity Act; or the Genetic Parentage Act."

⁶ MCL 722.1433 defines a "presumed father" as "a man who is presumed to be the child's father by virtue of his marriage to the child's mother at the time of the child's conception or birth."

⁷ MCL 722.1443(4)

- The court may determine by clear and convincing evidence that a child is born out of wedlock.

1.2 Protections for Certain Cases

The RPA limits revocation actions if any of the following apply to the case:⁸

- A court may not set aside a judgment or determination of a court or an administrative agency of another state;
- The RPA does not establish a basis for termination of an adoption and does not affect any obligation of an adoptive parent;
- The RPA does not establish a basis for vacating a judgment establishing the paternity of a child conceived under a surrogate parentage contract;
- A judgment under the RPA does not relieve a man from a support obligation for the child or the child's mother that was incurred before the action was filed;
- An alleged father may not bring an action under the RPA if the child was conceived as a result of acts for which the alleged father was convicted of criminal sexual conduct; and
- An action may not be brought under the RPA if the child is under court jurisdiction under Chapter XIIA of the Probate Code of 1939, MCL 712A.1 to 712A.32, and a petition has been filed to terminate the parental rights to the child.

2. Methods for Disestablishing Paternity⁹

2.1 Setting Aside an Acknowledgment of Parentage (AOP)

In order to set aside paternity that was established by the parties signing an AOP, the mother, acknowledged father,¹⁰ alleged father,¹¹ or the Prosecuting Attorney (PA) may file for paternity disestablishment under Section 7 of the RPA. Disestablishment actions under this section must be accompanied by an affidavit of fact that constitutes at least one of the following:

- A mistake of fact;
- Newly discovered evidence that could not have been discovered by due diligence before the AOP was signed;
- Fraud;

⁸ MCL 722.1443

⁹ This manual section is intended to be the State of Michigan's method for meeting the 60-day rescission requirements for paternity acknowledgment contained in section 466(a)(5)(D)(ii) and (iii) of the Social Security Act.

¹⁰ MCL 722.1433 defines an "acknowledged father" as "a man who has affirmatively held himself out to be the child's father by executing an Acknowledgment of Parentage under the Acknowledgment of Parentage Act, 1996 Public Act 305, MCL 722.1001 to 722.1013."

¹¹ MCL 722.1433 defines an "alleged father" as "a man who by his actions could have fathered the child."

- Misrepresentation or misconduct; and/or
- Duress in signing the AOP.

2.2 Determining a Genetic Father Is Not a Child's Father

An action to determine that a genetic father is not a child's father¹² may be filed by the mother, genetic father, alleged father, or the PA under Section 8 of the RPA. Disestablishment actions under this section must be accompanied by an affidavit of fact that constitutes one of the following:

- The genetic tests that established the man as the child's father were inaccurate;
- The man's genetic material was not available to the child's mother; or
- A man who has deoxyribonucleic acid (DNA) identical to the genetic father is the child's father.

2.3 Setting Aside an Order of Filiation

To set aside an order of filiation, the mother, alleged father, or the affiliated father¹³ may file for paternity disestablishment under Section 9 of the RPA. To be eligible for paternity disestablishment under this section, the order of filiation must have been entered as a result of the affiliated father's failure to participate in the proceedings resulting in a default judgment.

2.4 Determining a Child Was Born Out of Wedlock

To determine a child was born out of wedlock, the mother, presumed father, alleged father, or the Michigan Department of Health and Human Services (MDHHS) may file for paternity disestablishment under Section 11 of the RPA.¹⁴ The person filing the action has the burden of proving by clear and convincing evidence that the presumed father is not the father of the child.¹⁵ Additional requirements for eligibility under this section will vary based on the party that has filed the action.

3. IV-D Responsibility to Provide Paternity Disestablishment Services

If a party's RPA action meets the eligibility criteria identified in Subsection 4.1, "IV-D Eligibility Criteria," of this manual section, the IV-D program will provide genetic testing services. Providing disestablishment services will not be discretionary. As is true with other required IV-D services and policies, providing disestablishment

¹² MCL 722.1438

¹³ MCL 722.1433 defines an "affiliated father" as a man who has been determined in a court to be the child's father.

¹⁴ MCL 722.1441

¹⁵ While there is no specific statutorily imposed burden of proof in the RPA, case law suggests the courts use clear and convincing evidence.

services without discretion will ensure that all applicants and recipients of the government-funded IV-D child support program receive equal treatment without regard to the county or jurisdiction in which they live.

Local county IV-D partners may work together to determine the office, Prosecuting Attorney (PA) or Friend of the Court (FOC), best positioned to provide paternity disestablishment services. Each county will provide their decision to their OCS contract manager. In the absence of a decision, OCS will identify the office responsible for providing disestablishment services for the county.

While a county's paternity disestablishment services must be handled primarily by either the PA or the FOC office, both offices should work together in determining whether specific cases require a transfer from one functionality to the other.¹⁶

4. Determining Eligibility for IV-D Reimbursement

Federal IV-D funding is available for genetic testing in IV-D paternity disestablishment cases where paternity was established but subsequently contested in accordance with state law.¹⁷ 45 Code of Federal Regulations (CFR) 303.5(d)(2) defines a contested paternity case as "any action in which the issue of paternity may be raised under State law and one party denies paternity." When paternity is contested in accordance with state law and genetic testing has been ordered in a IV-D case, federal IV-D funding is available at 66 percent.

For paternity disestablishment services to be considered IV-D-reimbursable, the eligibility criteria listed below must be met. IV-D workers may also reference [Exhibit 4.06E1, Additional Questions and Answers Regarding Section 4.06, "Paternity Disestablishment"](#) for further guidance.

4.1 IV-D Eligibility Criteria

The following criteria are required in order for an RPA action to be considered IV-D-reimbursable:

- The family has an open Title IV-D case as a result of a completed *IV-D Child Support Services Application/Referral* (DHS-1201 or e1201) or a public assistance referral;¹⁸
- The mother and the alleged father are identified, located, and ready to cooperate and participate according to the court's records;¹⁹ and

¹⁶ Ref: [MiCSES Quick Reference Guide: CRAS – Transfer a Case](#) for information on how to transfer a case to a new functional area within the same county.

¹⁷ Federal [Office of Child Support Enforcement \(OCSE\) Policy Interpretation Question \(PIQ\)-03-01, Paternity Disestablishment](#)

¹⁸ Ref: [Section 2.05, "Referrals and Applications," of the Michigan IV-D Child Support Manual](#) for more information.

¹⁹ The availability of the legal father is not part of the required criteria for the purposes of providing IV-D disestablishment services and reimbursement.

- The court has ordered genetic testing.²⁰

IV-D workers²¹ will reference [Exhibit 4.06E2, Criteria for IV-D Reimbursement of Genetic Testing in Actions Under the Revocation of Paternity Act \(RPA\)](#) to determine whether genetic testing for the disestablishment of paternity meets the required criteria.

4.2 IV-D Activities for RPA

The following activities related to genetic testing **will be** IV-D-reimbursable:

- Reviewing the case and family situation to determine if all the required case criteria²² apply;
- Arranging and scheduling genetic testing and distributing results;
- Providing consultation and advisory services to the court;
- Making best-interest determinations upon the court's request; and
- Drafting proposed orders formalizing the results of the genetic tests.

4.3 Non-IV-D RPA Activities

The IV-D program will not initiate, advance or instigate other RPA case or court actions based on verbal (informal) or written (formal) requests from the court, the party, or the family member. IV-D reimbursement **is not** permitted for:

- Interviewing or meeting with parties for the purpose of disestablishment unless it is a result of a court order for genetic testing;
- Initiating court action under the RPA;²³
- Initiating an investigation to determine if the RPA applies;
- Locating the mother or alleged father for the purposes of disestablishment, because the mother and alleged father will already be cooperative and participating with the IV-D program;
- Obtaining parties' cooperation for the purposes of disestablishment; or
- Genetic testing not ordered by the court.

²⁰ The IV-D program reserves the right to refrain from providing IV-D services and IV-D reimbursement for cases that do not meet the disestablishment eligibility criteria identified in this manual section, regardless of whether a court has ordered genetic testing.

²¹ In cases not involving an RPA filing, these actions are the responsibility of the PA. For the purposes of this manual section, use of the terms "IV-D staff" or "IV-D workers" allows IV-D partners the option of choosing which office will handle RPA cases.

²² Ref: Subsection 4.1 of this manual section for more information on required IV-D eligibility criteria.

²³ It is the responsibility of the parties to initiate disestablishment actions. IV-D services will not begin until an action has been initiated and a court has ordered genetic testing.

5. IV-D Worker Actions When RPA Cases Do Not Meet IV-D Eligibility Criteria

When an RPA action does not meet the requirements for IV-D reimbursement,²⁴ the IV-D worker will end all actions for disestablishment.²⁵ The IV-D worker will also add a note on the Michigan Child Support Enforcement System (MiCSES) *Notes Processor* (NOTE) screen²⁶ indicating that IV-D services to disestablish paternity were requested but the case was not eligible. Documentation on the NOTE screen must include the reason the case does not qualify for IV-D disestablishment. The existing IV-D case will remain open until the case meets IV-D case closure criteria.

6. IV-D Worker Actions Once Genetic Testing Has Been Ordered

A court may order genetic testing in regard to a disestablishment action at any point during the lifecycle of a IV-D case as long as the court determines that standing requirements have been met.

Once a court has ordered genetic testing under the RPA and the IV-D eligibility criteria requirements have been met,²⁷ the IV-D worker will start the genetic testing process.²⁸ If the parties do not comply with the request to participate in the genetic testing, the case will not be eligible for IV-D disestablishment services or reimbursement.

6.1 Genetic Test Results Determine Alleged Father Is Not the Biological Father

If the genetic test results indicate that the alleged father is not the biological father, and there is a previous court order establishing a legal father and/or child support order, the legal father will remain on the case and the existing order will remain open and enforceable.

6.2 Genetic Test Results Determine Alleged Father Is the Biological Father

If the court determines that the legal father with both a IV-D case and an existing child support order is not the biological father under the RPA, the court may revoke paternity and enter a new order of filiation.²⁹ The order of filiation is the order that IV-D staff will enter into MiCSES.

If the court denies the parties' motion to disestablish paternity, IV-D staff must continue to enforce any existing child support order.

²⁴ Ref: Subsection 4 of this manual section regarding the eligibility requirements for IV-D reimbursement.

²⁵ Disestablishment actions may continue but will not be considered IV-D-reimbursable.

²⁶ Ref: [MiCSES Quick Reference Guide: Add Notes on the NOTE Screen](#) for more information.

²⁷ Ref: Subsection 4 of this manual section regarding the eligibility requirements for IV-D reimbursement.

²⁸ Ref: [Section 4.10, "Genetic Testing," of the Michigan IV-D Child Support Manual](#) for more information on the genetic testing process.

²⁹ MCL 722.717

When the court grants the motion to disestablish paternity, IV-D staff will do the following:

- As ordered by the court, end any child support orders on the previous legal father if there is an existing child support order;³⁰ and
- Establish a new child support order as soon as possible following the ruling.

Note: Federal and other IV-D reports will include the case as having a legal father with no support established and no support enforced until IV-D action is taken against the legal father.

IV-D staff will coordinate the opening of a new IV-D case and court order with the closing of an old IV-D case and court order. This will ensure there is no lapse in child support payments to the family.³¹ Assuming the mother is the IV-D applicant or grantee on an assistance referral, IV-D staff will not require a new IV-D application or assistance referral identifying the newly named father; IV-D services will continue based on the mother's previous application/assistance referral. A new application/referral is not needed to open a new IV-D case.

A new court action referral (CAR)³² may be necessary if either of the following situations occur:

- The court disestablishes the current legal father but does not establish a new legal father; or
- The court disestablishes the current legal father and establishes a new legal father but does not establish a new support order.

When manually closing IV-D cases with RPA actions, the IV-D worker must select the case status reason code "NS – No Viable IV-D Services" in the *Case Status RC* field on the *Case Member Details* (CASE) screen. At times, the IV-D worker may perform additional research and processing before manually setting the case status reason code on the CASE screen.

When the court decides that the existing court order will end, IV-D workers should encourage the court to address the following:

- The date on which the existing support will terminate;

³⁰ MCL 722.1443(3)

³¹ Ref: [Section 3.50, "Case Closure," of the Michigan IV-D Child Support Manual](#) and [Exhibit 3.50E1, Case Closure Matrix](#), for a complete list of closure reasons and their associated federal IV-D case closure criteria.

³² Ref: [Section 2.20, "Court Action Referrals \(CARs\)," of the Michigan IV-D Child Support Manual](#) for more information on CAR generation.

- That neither the state nor the custodial party (CP) on the original order are required to repay any support already disbursed;³³
- Arrearage amounts owed to current or former CPs on the order; and
- The removal of the prior legal father's name from the child's birth certificate.³⁴

6.3 Documentation in MiCSES

The IV-D worker will document the following in the existing IV-D case on the NOTE screen:

- The claim by the parents or others that the father has been incorrectly identified or established;
- That the court has ordered genetic testing and has asked the IV-D worker to arrange and schedule it;
- The identification, location and circumstances of the alleged father;
- The actions the IV-D worker has taken in scheduling and administering the sample collection and processing the results, and the dates of those actions;
- Communications and interactions the IV-D worker had with the parties regarding disestablishment, and any requests to or from the parties;
- The outcome of any legal action or legal proceeding; and
- If the court order prompts termination of action against the legal father.

SUPPORTING REFERENCES:

Federal

42 USC 666(a)(5)(D)
42 USC 666(a)(5)(D)(iii)
45 CFR 303.5(d)(2)

OCSE PIQ-03-01

State

MCL 722.711 – 722.730
MCL 722.1431 – 722.1445

REVISION HISTORY:

[IV-D Memorandum 2021-010](#)

³³ MCL 722.1443

³⁴ MCL 722.1437(6) requires the clerk of the court to forward a copy of an order of revocation entered under this section to the state registrar. The state registrar will then vacate the AOP and may amend the birth certificate as prescribed by the order of revocation.